

BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION**

HOUSE JUDICIARY COMMITTEE

Date: Tuesday, February 10, 2009
Place: Capitol

Time: 8:00 am
Room: 137

BILLS and RESOLUTIONS HEARD:

Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Add Postponed (PP) when appropriate:

HB 345, HB 372, HB 376

EXECUTIVE ACTION TAKEN:

Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Enter P(pass) F(failed) DPAA (do pass as amended) BC(be concurred in) BCAA (be concurred in as amended):

HB 346 (P) _____
HB 306 (DPAA) _____
HB 349 (Failed) _____

COMMENTS:



REP. Ron Stoker, Chairman

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE: 2/10/09

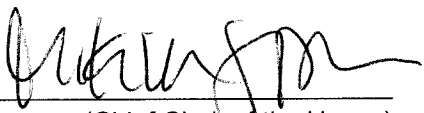
<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
Rep. Peterson		X
Rep. Kottel	X	
Rep. Kerns	X	
Rep. Sands	X	
Rep. Bennett	X	
Rep. MacDonald	X	
Rep. More	X	
Rep. Ebinger	X	
Rep. Wagner	X	
Rep. Becker	X	
Rep. Driscoll	X	
Rep. Regier	X	
Rep. McClafferty	X	
Rep. Howard	X	
Rep. Blewett	X	
Rep. Warburton	X	
Rep. Menahan	X	
Rep. Stoker	X	

COMMITTEE FILE COPY

TABLED BILL

The **HOUSE JUDICIARY COMMITTEE** TABLED HB 349, by motion, on **Tuesday, February 10, 2009.**

(For the Committee)



(Chief Clerk of the House)

_____, 2/10
(Time) (Date)

February 10, 2009

Jennifer L. Eck, Secretary

Phone: 444-4832



HOUSE STANDING COMMITTEE REPORT

February 12, 2009

Page 1 of 4

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 308** (first reading copy – white) do pass as amended.

Signed: _____

Ron Stoker
Representative Ron Stoker, Chair

And, that such amendments read:

1. Title, lines 6 and 7.

Following: "SENTENCE" on line 6

Strike: "TO PERFORM COMMUNITY SERVICE"

Strike: "SECTIONS" on line 6 through "46-18-250," on line 7

Insert: "SECTION 46-18-201,"

2. Page 1, line 11 through page 3, line 28.

Strike: sections 1 through 3 in their entirety

Insert: "Section 1. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense

Committee Vote:

Yes 11, No 7

Fiscal Note Required ____

HB0308001SC.hjd

upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

- ~~(a)~~ (i) a fine as provided by law for the offense;
- ~~(b)~~ (ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;
- ~~(c)~~ (iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;
- ~~(d)~~ (iv) commitment of:
 - ~~(i)~~ (A) an offender not referred to in subsection ~~(3)(d)(ii)~~ (3)(a)(iv)(B) to the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), and 45-5-625(4); or
 - ~~(ii)~~ (B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;
- ~~(e)~~ (v) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;
- ~~(f)~~ (vi) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;
- ~~(g)~~ (vii) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or
- ~~(h)~~ (viii) any combination of subsections (2) ~~through (3)(g)~~ and (3)(a)(i) through (3)(a)(vii).

(b) A court may not more than twice annually, as part of a program available to an identifiable class of defendants owing fines imposed by the court, permit up to \$100 of the amount of the fine to be satisfied by a donation of food, clothing, or other necessities of life to a community organization dedicated to the provision of those items to low-income individuals.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or

conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) ~~of this section~~ may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;

(n) participation in a day reporting program provided for in 53-1-203;

(o) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

(p) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(p).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or

driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.""

Renumber: subsequent section

- END -



HOUSE STANDING COMMITTEE REPORT

February 11, 2009

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 340** (first reading copy – white) **do pass.**

Signed: _____

Ron Stoker
Representative Ron Stoker, Chair

- END -

Committee Vote:

Yes 12, No 6

Fiscal Note Required ☐

HB0340001SC.hjd

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/10/09 BILL NO HB 340 MOTION NO. _____

MOTION: DO PASS HB 340

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel	X		
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett	X		
Margaret MacDonald	X		
Michael More	X		
Bob Ebinger	X		
Bob Wagner		X	
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier		X	
Edith McClafferty	X		
David Howard		X	
Anders Blewett	X		
Wendy Warburton	X		
Mike Menahan	X		
Ron Stoker		X	

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/10/07 BILL NO HB 308 MOTION NO. _____
 MOTION: _____

DO PASS HB 308 AS AMENDED

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel	X		
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett		X	
Margaret MacDonald	X		
Michael More	X		
Bob Ebinger	X		
Bob Wagner		X	
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier		X	
Edith McClafferty	X		
David Howard	X		
Anders Blewett	X		
Wendy Warburton	X		
Mike Menahan		X	
Ron Stoker		X	

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/10/09 BILL NO HB 308 MOTION NO. _____
 MOTION: _____

DO PASS Amendment HB030802.2dr
(Rep. Wagner)

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson	X		
Deborah Kottel		X	
Krayton Kerns	X		
Diane Sands		X	
Gerald Bennett		X	
Margaret MacDonald		X	
Michael More	X		
Bob Ebinger	X		
Bob Wagner	X		
Arlene Becker		X	
Robyn Driscoll		X	
Keith Regier	X		
Edith McClafferty		X	
David Howard		X	
Anders Blewett		X	
Wendy Warburton	X		
Mike Menahan		X	
Ron Stoker	X		

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE 2/10/09 BILL NO HR 247 MOTION NO. _____
 MOTION: _____

Motion. DO PASS HR 247
(Per Kottel)

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Ken Peterson		X	
Deborah Kottel		X	
Krayton Kerns		X	
Diane Sands	X		
Gerald Bennett		X	
Margaret MacDonald	X		
Michael More		X	
Bob Ebinger	X		
Bob Wagner		X	
Arlene Becker	X		
Robyn Driscoll	X		
Keith Regier		X	
Edith McClafferty	X		
David Howard		X	
Anders Blewett	X		
Wendy Warburton		X	
Mike Menahan	X		
Ron Stoker		X	

**Montana House of Representatives
Visitors Register**

JUDICIARY COMMITTEE

Date 2/9/09

Bill No. HB 372

Sponsor(s) Rep. Wilmer

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Name and Address	Representing	Support	Oppose	Inf.
Boice Fairbrother	AARP	✓		
Valerie Ann Bozeman		✓		
Lynn Ivellenga	Self	✓		
Bozeman				
DEBORAH STOKER BOZEMAN	Self	✓		
PATRICIA A. HENNESSEY	Self	✓		
Sharon McDonald		✓		
Stacey Anderson	Self IPMT	✓		
Cord Roberts	breastfeeding moms & La Leche League	✓		
CHRISTOGELMAN	SELF	✓		
Beth Brenneman	Disability Rights MT	✓		
Niki Zupanic	ACLU	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**Montana House of Representatives
Visitors Register**

JUDICIARY COMMITTEE

Date 2/9/09

Bill No. HB 345 Sponsor(s) Rep. Peterson

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Name and Address	Representing	Support	Oppose	Inf.
ROBERT PHILLIPS ^{MISSOULA}	FARMERS UNION		X	
ACQUILINO J. ZEMARK	AIA, ACLI		X	
Dennis Lopez	AHIP		X	
Richard J. Stasch	Info		X	
Lynn Hellinga	Self			
1017 O'Connell				
392 2nd DARY	Shang / MMCA		X	
Bob Biskupiak	ISAM		X	
Shannon				
Greg VanHorn	State Farm Ins		X	
Brian Spencer	PCI		X	
Angie Easton	Farmers Ins		X	
Maria Jamison	Allstate		X	
Curt Drake	Mont West Farm Bur.		X	
Robert Jacobsen		X		
Carol Roberts	Presidents & Teachers Union for the Local League	X		
Maria Jamison	DOCTORS comp		X	
Al Smith	MTLIT	X		
Mike WHEAT	SELF	X		
Don Buckley	Self	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MARK TAYLOR ^{MTA} ~~INSURANCE~~ ^{FARMERS} X
 Joe Mekeponos INS. EXCHANGE REG. X
 FRANK ~~EL~~ BSC BS MY X
 JON BENNISON mt chamber X

Date 2/9/09

Bill No. HB 376 Sponsor(s) Rep. Tangle

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.